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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91218318
Party	Defendant Joy Flavor Technology, Inc.
Correspondence Address	Alex Patel Patel & Almeida, P.C. 16830 Ventura Blvd., Suite 360 Encino, CA 91436 michael@paiplaw.com;alex@paiplaw.com; p
Submission	Answer
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Date	09/23/2014
Attachments	Joy Flavor _ BBK _ Applicant's Answer _ 91218318.pdf(21636 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

BBK Tobacco & Foods, LLP,)	
)	
Opposer,)	Opposition No. 91218318
)	Ser. No. 86/056,282
)	Mark: J (& Design)
v.)	
)	
Joy Flavor Technology, Inc.,)	
)	
)	
Applicant.)	
)	
)	
)	

APPLICANT'S ANSWER TO NOTICE OF OPPOSITION

Applicant, Joy Flavor Technology, Inc. (hereinafter, “Applicant”), a corporation organized and existing under the laws of the State of California, having an address of 901 S. Fremont Ave. #128, Alhambra, California, by its attorneys hereby responds to the allegations set forth in the Notice of Opposition filed by BBK Tobacco & Foods, LLP (hereinafter, “Opposer”), as follows:

1. Applicant admits the truth of the allegations set forth in Paragraph 1 of the Notice of Opposition.
2. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 2 of the Notice of Opposition, and therefore denies all such allegations.
3. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 3 of the Notice of Opposition, and therefore denies all such allegations.
4. Applicant admits the truth of the allegations set forth in Paragraph 4 of the Notice of Opposition.
5. Applicant admits the truth of the allegations set forth in Paragraph 5 of the Notice of Opposition.

6. Applicant denies the truth of the allegations set forth in Paragraph 6 of the Notice of Opposition.
7. Applicant denies the truth of the allegations set forth in Paragraph 7 of the Notice of Opposition.
8. Applicant denies the truth of the allegations set forth in Paragraph 8 of the Notice of Opposition.
9. Applicant denies the truth of the allegations set forth in Paragraph 9 of the Notice of Opposition.
10. Applicant denies the truth of the allegations set forth in Paragraph 10 of the Notice of Opposition.
11. Applicant denies the truth of the allegations set forth in Paragraph 11 of the Notice of Opposition.
12. Applicant denies the truth of the allegations set forth in Paragraph 12 of the Notice of Opposition.
13. Applicant denies the truth of the allegations set forth in Paragraph 13 of the Notice of Opposition.
14. Applicant denies the truth of the allegations set forth in Paragraph 14 of the Notice of Opposition.
15. Applicant denies the truth of the allegations set forth in Paragraph 15 of the Notice of Opposition.
16. Applicant denies the truth of the allegations set forth in Paragraph 16 of the Notice of Opposition.
17. Applicant denies the truth of the allegations set forth in Paragraph 17 of the Notice of Opposition.

18. Applicant denies the truth of the allegations set forth in Paragraph 18 of the Notice of Opposition.

AFFIRMATIVE DEFENSES

19. As a first and separate defense, Applicant is informed and believes, and on this basis asserts that Opposer's claims are barred from recovery due to the fact that Applicant's Mark is not confusingly similar in appearance, sound, meaning or overall commercial impression to Opposer's marks, which Opposer alleges as a basis for its claims in the Notice of Opposition.
20. As a second and separate defense, Applicant is informed and believes, and on this basis asserts that Opposer's claims are barred from recovery due to the fact that there is no evidence or allegation of any actual confusion, deception or mistake among consumers as to the source of each party's respective goods and/or services.
21. As a third and separate defense, Applicant is informed and believes, and on this basis asserts that Opposer's claims are barred from recovery due to the fact that Applicant adopted and created its mark in good faith and without any intent to confuse or deceive the public.
22. As a fourth and separate defense, Applicant is informed and believes, and on this basis asserts that Opposer's claims are barred from recovery due to the fact that Opposer's registrations, which Opposer alleges as a basis for its claims in its Notice of Opposition, were not cited by the USPTO Examining Attorney as potentially causing any likelihood of confusion with Applicant's Mark during the examination of Applicant's application. In fact, when reviewing Applicant's application, the USPTO Examining Attorney failed to cite any trademarks, including Opposer's Marks, as confusingly similar and a potential bar to Applicant's registration.

23. As a fifth and separate defense, Applicant is informed and believes, and on this basis asserts that Opposer's claims are barred from recovery due to the fact that extensive use in the marketplace of the letter "J", as the dominant and first term in marks used in connection with goods closely related to those sold by Opposer, renders this term diluted. Consequently, Opposer's claims, based solely on alleged similarities with this heavily diluted term, will not weigh in favor of a finding of confusion.

WHEREFORE, Applicant prays that this Opposition be denied and the registration of U.S. Application Serial No. 86/056,282 be granted.

Dated as of: September 23, 2014

By: /Michael W. Schroeder/
Michael W. Schroeder
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(818) 380-1900

Attorneys for Applicant,
Joy Flavor Technology, Inc.

PROOF OF SERVICE

I hereby certify that a true and complete copy of the foregoing **ANSWER TO NOTICE OF OPPOSITION** has been served on BBK Tobacco & Foods, LLP, Opposer, on September 23, 2014, via First Class U.S. Mail, postage prepaid to:

BBK TOBACCO & FOODS, LLP
3315 WEST BUCKEYE ROAD, SUITE B
PHOENIX, AZ 85009

By: /Michael W. Schroeder/
Michael W. Schroeder

I hereby certify that a true and complete copy of the foregoing **ANSWER TO NOTICE OF OPPOSITION** has been served Frank G. Long, counsel for Opposer, on September 23, 2014, via First Class U.S. Mail, postage prepaid to:

FRANK G. LONG, ESQ.
DICKINSON WRIGHT PLLC
1850 NORTH CENTRAL AVENUE, SUITE 1400
PHOENIX, AZ 85004-4568

By: /Michael W. Schroeder/
Michael W. Schroeder